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Massachusetts Department of Energy Resources
100 Cambridge Street, Suite 1020
Boston, MA 0214
Attn: Courtney Feeley Karp, Esq.

Re: Comments on Proposed Final RPS I Regulations

Dear Ms. Feeley Karp,

Pursuant to the Department's notice of January 14, 2009, respecting the Proposed Final Regulations for the Class I RPS, Cape Wind Associates, LLC ("CWA") hereby submits its comments on the proposed regulations. As a general matter, CWA believes that the department has done an admirable job in implementing the intent of the Legislature to assure greater reliability commitments from RPS participants, while balancing the respective interests that have been raised in a non-discriminatory manner. CWA's additional suggestions are set forth below.

Traditional Units Utilizing Landfill Methane Gas. CWA strongly opposes the proposed revision set forth at Section 14.05(1)(a)(5) that would amend the rules, as they have been in effect since the outset in 2002, to allow traditional combined cycle generating units operating on pipeline gas to be deemed to be RPS Class I Renewable Generation Units. Such a traditional unit would only need to claim that some portion of its pipeline gas corresponded to volumes of landfill methane gas ("LMG") purchased, commingled and transported from a remotely-located point of production via the interstate pipeline system. The original rule assured an appropriate operational nexus between the generating unit and the source of the LMG through the following proviso: "PROVIDED that such gas is collected and conveyed directly to the Generation Unit without the use of facilities used as common carriers of natural gas."

Such original proviso was the result of an extensive and public process that carefully considered the relevant issues and placed an appropriate limitation in order to assure consistency with the Legislative intentions of the RPS, including the stimulation of investment in innovative new electrical generating technologies, enhanced reliability through fuel diversification, and the creation new jobs in the green electrical sector, none of which would be furthered under the proposed amendment. Most obviously, traditional generating units would become eligible without any investment or alteration in their current

operations, which would remain entirely dependent upon pipeline gas supply. There would also be no need for any physical alteration of, or investment in, the generating unit. There would be absolutely no change in the actual dispatch of the ISO-NE electrical system, which would run exactly as before, with no displacement of any non-RPS generation. There would also be no new jobs in the electrical sector. And there would be no increased system reliability resulting from fuel diversity, since the generation unit would remain entirely reliant upon delivery by the interstate pipeline system. In contrast, a unit qualifying under the original rule would meet each of the foregoing objectives; it would require site-specific alteration, investment and employment, and it would cause an actual change in the electrical system dispatch by providing an alternative fuel source that is not commingled in a common carrier, and thus not dependent upon the interstate pipeline system. We also note see is no basis in the Green Communities Act that would support such a drastic change of a long-standing provision.

Stoker Eligibility. CWA also believes that the Department should reinstate into Rule 14.05(1)(a)(7) the original provision that restricted eligibility of biomass conversion technologies to those that were both "advanced" and "low emission." Such a reinstatement is appropriate at this time because proposals to eliminate one of such statutory conditions (i.e., the "advanced" requirement) were not included in the final version of the Green Communities Act. The legislative intent behind the surviving statutory requirement of "advanced" technology was made expressly clear by the Report of the Joint Committee on Energy Regarding Final Proposed Rules, which on March 6, 2002, advised the Department as follows:

> [T]he Committee is concerned that the pollution control policies is some jurisdictions might enable technologies which otherwise would not be considered "advanced" to qualify. In particular, we refer to pile burn and stoker technologies, which have been in use for decades and would not be considered advanced under any reasonable definition of the term.

Id., emphasis added. In response to that express legislative statement, the original rules including the foregoing proviso that categorically excluded stokers as beyond the intended scope of "advanced" technologies, and the proposed rules should reinstate such proviso in accordance with the surviving statutory provision of limitation An established technology that was not "advanced" in 2002 is certainly not advanced today, some 7 years later.

Import Issues. CWA generally supports the work of the Department in fashioning a workable means to further the legislative intent in a manner that is non-discriminatory and that avoids certain unintended consequences. We do support, however, the requests for clarification sought by Transcanada regarding the commitment of a unit's energy to serve this region, and the clarification sought by Mr. Wood confirming the grandfathering of unit-specific and pre-existing sales contracts.

Thank you for your consideration.

Dennis J. Duffy

Dennis J. Duffy, Vice President